

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
COURT FILE NO. 2:20-cv-00022-D**

LITITZ MUTUAL INSURANCE
COMPANY a/s/o RANDY JOHNSON,

Plaintiff,

vs.

MTD PRODUCTS INC.; CUB CADET
LLC; and KOHLER CO.

Defendants.

**RULE 26 DISCLOSURES OF DEFENDANT
KOHLER CO.**

Defendant Kohler Co. (“Kohler”) , by and through its attorneys, hereby provides its disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) subject to the general reservation that there will be additional relevant information that is not yet known to Kohler and which may be obtained through discovery and/or further investigation of Plaintiff’s claim. Kohler reserves its right to amend or supplement these disclosures as necessary.

- A. Rule 26(a)(1)(A)(i) – the name and, if known, the address and telephone number of each individual likely to have discoverable information-along with the subjects of that information-that the disclosing party may use to support its claims and defenses, unless the use would be solely for impeachment.**

At this early stage in the suit and given the limited information provided by Plaintiff as to the claims being asserted, Kohler is unable to identify the individuals likely possessing discoverable information. Subject to this reservation, Kohler identifies the following individuals who may have information about Plaintiff’s claims:

1. One or more employees or representatives of Kohler, 444 Highland Drive, Kohler, WI 53044, who will testify regarding the design, manufacture, warnings, instructions and testing related to the engine in the subject riding law tractor, if and when the tractor at issue is identified.

2. One or more employees or representatives of MTD Products, Inc., 5903 Grafton Road, Valley City, Ohio 44280, who will testify regarding the design, manufacture, warnings, instructions and testing related to the subject riding law tractor, if any when the lawn tractor is identified.
3. One or more employees or representatives of Plaintiff, Lititz Mutual Insurance Co. Such representatives may have knowledge regarding the insurance policy issued to Mr. Johnson, the events leading up to and surrounding the alleged loss.
4. Randy and Melody Johnson, 822 Wakelon Road, Windsor, NC 27983. Mr. and Mrs. Johnson are presumed to have knowledge about the statements made about the subject fire, their conduct on the day of the fire, knowledge of the subject lawn tractor's purchase, care, condition, repair, maintenance and use, knowledge of the damages sought, and documentation and records relating to those matters.
5. One or more representatives of the police and/or fire departments that responded to the subject fire. These representatives may have knowledge regarding the events leading up to and surrounding the fire and loss, as well as the efforts to suppress the fire, and any investigation into the cause and/or origin of the fire.
6. Other, as yet unknown, witnesses to the subject fire regarding their observations of the fire scene.
7. Other, as yet unknown, witnesses regarding the sale, care, condition, repair, maintenance and use of the subject lawnmower.
8. Other, as yet unknown, witnesses regarding Plaintiffs' claimed losses and damages as a result of the subject fire.
9. Any and all potential witnesses identified by Plaintiff, including but not limited to those identified in Rule 26(a)(1) Disclosures.

Kohler reserves the right to identify additional witnesses as discovery proceeds and information becomes available responsive to this disclosure.

B. Rule 26(a)(1)(A)(ii) – a copy-or description by category and location-of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Kohler has very limited information regarding this action. At this stage of the case Kohler is only able to identify its own internal documents related to the design and manufacture of the

engine at issue, which will be made available for inspection and/or copying at a time and place mutually agreed upon by counsel for the parties.

Kohler reserves its right to rely upon any and all additional documents and other evidence that may be revealed during discovery.

- C. Rule 26(a)(1)(A)(iii) – a computation of each category of damages claimed by the disclosing party-who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

Kohler does not claim to have sustained damages.

- D. Rule 26(a)(1)(A)(iv) – Liability insurance applicable to Plaintiffs’ underlying claim.**

Kohler’s insurance is subject to a self-insured retention that is sufficient to satisfy Plaintiffs’ claimed damages.

This the 1st day of September, 2020.

POYNER SPRUILL LLP

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed with the Clerk of Court for the United States District Court, Eastern District of North Carolina, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of Electronic Filing" to all attorneys of record who have consented to accept service by electronic means.

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This the 1st day of September, 2020.

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